CMS
Communication Management Systems, Inc.

June 22, 1994

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Ms. Susan Ness, Commissioner
Federal Communications Commission
Office of the Secretary
1919 M Street
Room 222
Washington, DC 20554

RE: Billed Party Preference for 0+ InterLATA Calls, Further Notice of Proposed Rulemaking (CC Docket No. 92-77)

Dear Commissioner Ness:

We are writing in response to your invitation for further comments on issues raised by the docket on Billed Party Preference ("BPP") - a proposal which advocates consumer, or "Billed Party," choice rather than site owner selection of the preferred, or "pre-subscribed," long distance carrier for operator assisted calls. Historically, the commissions paid to the site owner from traffic carried by the pre-subscribed carrier have been a significant component of the compensation, or "rent," for the space devoted to public communications. The BPP proposal unlinks that relationship.

Communication Management Systems, Inc. manages pay telephone activities for national retail outlets providing sites for public communication equipment and facilities. The petroleum, convenience store and fast food industries provide sites for several hundred thousand phones representing a large portion of the two (2) million public phone base. These phones serve the traveling public as well as individuals unable to afford residential phone service. In addition, these sites provide network access for emergency communications affecting the health and public safety of the surrounding communities. We assist in the negotiation of commission arrangements with local and long distance carriers servicing our clients' sites and in the monitoring of performance and quality of service issues related to public communications at those sites.

We understand that the Federal Communication Commission's (the "Commission'" or "FCC") advocacy of Billed Party Preference is, in large part, driven by complaints associated with the imposition of substantial Provider Imposed Fees ("PIFs") or surcharges by some carriers. We believe that market forces will solve the PIF issue. We police these practices for our clients who do not want to jeopardize good customer relations by bad payphone experiences. The Commission's assertion that "premise owners" are not concerned with "servicing consumers" is erroneous.

The Commission should be aware that the public communication network extends beyond the local exchange carrier ("LEC"). We believe that the site owner's interests may be overlooked if BPP is adopted in its present form. This will, in turn, negatively impact the availability of payphones and/or the price of local calling. The majority of

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our clients have dominant carrier pay telephones installed on their premises and are compensated as a percentage of revenues accruing to the local and pre-subscribed long distance carriers. Currently, Dial Around traffic (FCC mandated access to 800, 10XXX and 950 "Toll Free" calls on all public phones) comprises up to 50% of the long distance calling originated from a site. However, non pre-subscribed carriers have no contractual relationship to the site owner and, consequently, do not independently compensate the site owner for Dial Around. BPP will further exacerbate this problem, essentially making all long distance traffic non commissionable to the site. This would occur notwithstanding the fact that the LEC collects its normal access charge on all traffic passing over its network.

From the site owner's perspective the use of its real estate by "non-paying" customers constitutes an unauthorized "taking", or conversion, of a portion of the economic value of the premises. Local and long distance carriers are not forced to furnish transportation free of charge over their networks. Why should our clients be required to furnish the network connection points without compensation? Dial Around compensation agreements between the American Public Communications Council, AT&T and other carriers address this issue from the perspective of private pay telephone companies. Those settlements do not reach LEC payphones nor does a LEC have a great incentive to enter the debate - since it is paid an access charge in all events and cannot otherwise share in long distance revenue. BPP should be used as an opportunity to remedy, not extend this inequity.

Without connection points, or sites, at which to install phones, the public communications market could not exist - jeopardizing public convenience and safety (e.g. the availability of phones for emergency "911" assistance). The Commission's objectives ought not discourage the dedication of space to serve this market, particularly as the pay telephone becomes the primary means of communication for a growing segment of our population. **If BPP does not make provision for appropriate compensation, its stated goal of championing "consumer choice" will have the corollary result of reducing consumer availability and/or increasing the consumer's price of local calling.** Here's why.

Capital investment, including the decision to devote retail space to a pay telephone, is attracted where profits are maximized and economic uncertainty minimized. Dial Around and BPP (as proposed) contribute to volatility of revenues, making the site owner look to other alternatives which reduce investment risk. Alternative uses, such as video arcades or vending machines, may have better economics from the site provider's perspective. Since most of our clients contract with LECs to provide public communications services, dwindling compensation from long distance providers will have the unintended result of increasing pressure on the local provider for more compensation from its local calling revenue. The local carrier will, in turn, seek rate relief from its regulatory authority to raise the cost of a local call in order to recover its capital investment in equipment and the site compensation it must pay.

By example, an airport phone's traffic is typically comprised of 80% long distance and 20% local calling. Both local and long distance traffic currently contribute to site compensation, capital recovery and operating expenses associated with the deployment of a phone. Local traffic alone is not sufficiently lucrative to pay the "rent." BPP removes 80% of the potential revenue base from the investment equation. The LEC must pay 100% of site compensation, other operating expenses and capital recovery from 20% of the former revenue base. This could increase the cost of local calling five fold. The complaints stemming from a potential $1.25 local call by the traveling public may be more numerous than those the FCC currently receives involving PIFs.

The impact of BPP will not be consistent over all payphone sites. The economics will vary depending on the amount of long distance revenue withdrawn. In all instances it will make investment less attractive and put pressure on local calling rates. The impact will be most significant on the traveling public and on those constituents who rely most on public phones for their communication needs. The beneficiaries will be the long distance companies who no longer contribute to the cost of public communications facilities.

To the extend BPP eliminates compensation for long distance service, **innovation - a hallmark of the American telecommunications industry - is undermined.** In a competitive environment, private pay telephones have developed remote diagnostics (reducing maintenance costs), extended services (such as, store and forward technologies) and sophisticated fraud detection applications (lowering network costs). These technologies are only now being implemented by the LECs, contributing to increased efficiencies in telecommunications. If BPP has the impact of removing revenues from this market segment, public communications will be bypassed in the development of the Information Superhighway.

We believe that the site provider should be compensated by the value of its premises as a gateway to the public switched network. Market forces, not an artificial per call formula, should dictate the value of network access. Our clients have significant investment in distribution points which are just as vital to the furnishing of telecommunications services as any other component of the network. BPP, without fair compensation to the site provider, will constrain investment in new technology and limit access to the existing public communications network - negatively impacting public safety and public convenience. This is inconsistent with positions the FCC is taking with respect to other segments of the communications infrastructure.

We would be pleased to meet with you to explore the issues raised in further detail.

Sincerely,

Michael W. Scott

Michael W. Scott, CEO